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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,924	12/01/2003	Nathan W. Pingel	PDG 1264-002F	3248

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STANDLEY LAW GROUP LLP
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EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,924

Applicant(s)

PINGEL, NATHAN W.

Examiner

Bruce A. Lev

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 3, 4, 14, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As concerns claims 3 and 14, the phrase "grid *like*" is vague and indefinite.

As concerns claims 4 and 15, the phrase "said frame structure" lacks antecedent basis and therefore renders the claims as vague and indefinite.

Double Patenting

Claims 1-20 are rejected under the judicially created doctrine of double patenting over claims 1-16 of U. S. Patent No. **6,112,473**; claims 1-10 of U. S. Patent No. **6,349,509**; and claims 1-4 of U. S. Patent No. **6,655,095**, since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A house comprised of a plurality of modular units; a plurality of molded panels having openings for doors or windows; and architectural features.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of

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the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hughes** 3,793,796 in view of **Lieberman** 5,070,668.

As concerns claims 1-3, 5, 6, 8-14, 16, 17, 19, and 20, **Hughes** sets forth a house comprised of a plurality of modular units connected together and including a plurality of exterior panels 34 some of which having openings 38 for a door. **What**

Hughes does not set forth is the panels being form/press-molded and containing resin fire resistant material. However, **Lieberman teaches** forming house component panels being form/press-molded and containing resin fire resistant material (viewed as the fiberglass material). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the panel of Hughes by form/press-molding them with material containing resin fire resistant material, as taught by Lieberman, in order to decrease the number of process steps necessary to fabricate the panel, and to increase the strength and safety of the finished

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panel. The applicant should note that ***product-by-process*** and ***design/ornamental*** limitations are NOT given patentable weight within the apparatus claims.

As concerns claims 7 and 18, Hughes sets forth the floor panel, the frame, and the beams comprising steel and are welded together.

Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hughes in view of Lieberman further in view of Spengler et al 5,709,925.

Hughes in view of Lieberman set forth the modular house, as advanced above, except for the foam insulation between a frame and exterior panels. However, ***Spengler et al teach*** the use of foam insulation between layers (inclusive of the layers of substrate 4) between panels of a housing member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the modular house of Hughes in view of Lieberman by injecting foam insulation between a frame and exterior panels, as taught by Spengler et al, in order to increase the insulating properties of the modular house component.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

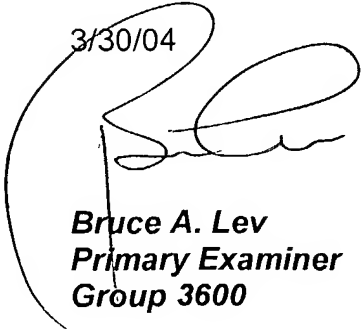
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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

3/30/04



Bruce A. Lev
Primary Examiner
Group 3600